



Reply to the Attention of:

AUG 23 2007

MEMORANDUM FOR: AGENCY SAFETY AND HEALTH MANAGERS

FROM:

Richard E. Fairfax
RICHARD E. FAIRFAX, Director
Directorate of Enforcement Programs

SUBJECT: Request for a Listing of Federal Agency Establishments

In 2004 OSHA revised the federal agencies' recordkeeping requirements to collect better information about the incidence of occupational injuries and illnesses, and to improve employee awareness and involvement in the recording and reporting of job-related injuries and illnesses. This rule change, which took effect on January 1, 2005, made the federal sector's recordkeeping and reporting requirements essentially identical to those of the private sector. Specifically, it amended the basic program elements under 29 CFR Part 1960, Subpart I, to make pertinent private sector recordkeeping requirements under 29 CFR Part 1904 applicable to all Executive Branch federal agencies.

Part 1904 requires federal agencies to keep injury and illness logs, incident reports, and annual summaries at each of their establishments. The Federal Advisory Council on Occupational Safety and Health (FACOSH), through a Recordkeeping Subcommittee, is currently identifying how the Occupational Safety and Health Administration (OSHA) can use the Part 1904 injury and illness records to assist federal agencies in ensuring safe and healthful workplaces for their employees. In order to do so, OSHA must be able to identify, collect, and track the injury and illness data from each federal establishment.

In preparation for this endeavor, I request that each federal department and independent agency provide OSHA with a list of agency establishments by **January 1, 2008**. The list should include a unique name of the establishment, the street address, city, state and zip code.

The attached guidance is intended to assist federal agencies in identifying establishments as defined by 29 CFR Part 1960.2. If you currently have coding systems to identify each of your establishments, you may wish to include these codes in your submittal. To the extent possible, your existing codes will be used in the government-wide system. If you do not provide your establishment codes or if they do not already exist, OSHA will assign a unique identifier for each establishment. For your convenience, you may choose to use the following format when submitting your establishment information:

Establishment List

CODE (optional)	NAME	STREET ADDRESS	CITY	STATE	ZIP CODE

You may submit this information at any time prior to January 1, 2008 or may include it with your agency's annual report which is also due on *January 1, 2008*. Please provide an electronic copy of your agency's establishment list to ofap@dol.gov. If you have any questions, please contact Diane Brayden, Director, Office of Federal Agency Programs, at (202) 693-2187.

Attachment

FEDERAL AGENCY ESTABLISHMENT GUIDANCE
Clarification of the Term "Establishment" for Federal Agencies
for the Recording of Injury and Illness Data

This document is intended to provide clarification regarding the term "establishment" as it applies to federal agencies for the recording of injury and illness data on the OSHA 300 log. There has been some confusion regarding how to accurately identify an establishment for Federal Agency recordkeeping purposes.

The term *establishment* as defined at 29 CFR 1960.2(h) means a single physical location where business is conducted or where services or operations are performed. Where distinctly separate activities are performed at a single physical location, each activity is to be treated as a separate establishment. Typically, the term establishment refers to a field activity, regional office, area office, installation, or facility.

When the recordkeeping requirements for federal agencies were revised to be consistent with 29 CFR Part 1904, OSHA did not update the definition of establishment for federal agencies. However, it is helpful to refer to the preamble of Part 1904, which discusses detailed scenarios for identifying an "establishment" for maintaining the OSHA 300 log. Of special interest to agencies that use temporary worksites, the preamble instructs that employers are required to maintain separate OSHA 300 logs for facilities that are expected to remain in operation for one year or more. For shorter term establishments, employers are not required to maintain separate logs, but may do so if they wish.

In our Compliance Directive, entitled "Federal Agency Safety and Health Programs, OSHA Instruction FAP 1.3" at paragraph G.1., Definitions, OSHA has provided further clarification of the term "*establishment*" with examples, such as:

- a. Major organizational units with distinct lines of authority shall be counted as separate establishments.
- b. Agencies or bureaus in a department would be separate establishments even if they occupied the same building.
- c. Each component of the Department of Defense (Army, Navy, etc.) and each major command located at an installation would be a separate establishment.
- d. Lower organizational units that are located at the same physical location, such as offices or divisions within a bureau, or shops within a command, are **not** considered separate establishments. The bureau or command to which they belong is the establishment.

Following you will find a series of questions and answers, as well as a few examples to illustrate the practical application of the concept of establishment for OSHA's recordkeeping regulation.

QUESTIONS AND ANSWERS

Question: What is meant by "major organizational units with distinct lines of authority?"

Answer: Each federal department has an organizational structure consisting of agencies, bureaus, or other components that come under line of authority of an Assistant Secretary, Under Secretary or similar level. These agencies, bureaus or components are considered the major organizational units of a department.

Question: Can the agencies or bureaus of a department be considered separate establishments even if they occupy the same building?

Answer: Yes. Many federal departments have their agencies, bureaus or components housed in centralized locations (i.e., national, regional, or area offices). As addressed in the previous question, these agencies, bureaus or components make up a federal department's major organizational units having distinct lines of authority. Even though they may be located in the same building, each agency, bureau or component would represent a distinct line of authority and be considered a separate establishment.

Question: Within a major organizational unit, what constitutes a separate establishment?

Answer: Each workplace with a separate physical location is considered a separate establishment. Temporary worksites or satellite offices that are expected to remain in operation less than one year can, if they desire, record their injuries on the log for the permanent establishment from which they are managed.

Question: Would a component of the Department of Defense (Army, Navy, etc.) and each major command located at an installation be considered a separate establishment?

Answer: Yes. Each component of the Department of Defense (DOD) represents a major organizational unit of DOD with a distinct line of authority and would be considered a separate establishment. Also, each major command within a DOD component, located at an installation, would be considered a separate establishment. For example, at an installation, overall authority would belong to the base command and this would be considered a single establishment. However, if other major commands with authority over their commands' facilities and operations are co-located at the installation, those commands would be considered separate establishments.

Question: Can lower organizational units such as offices or divisions within a bureau or shops within a command be considered separate establishments when housed in a common location?

Answer: No. Lower organizational units are not considered separate establishments because the distinct line of authority comes from their major organizational unit. For example, OSHA is an agency within the Department of Labor. OSHA's National Office or Headquarters is supported by an organizational structure consisting of directorates, offices

and divisions, located in the Frances Perkins Building. In this case the *establishment* would be OSHA's entire National Office or Headquarters structure. The OSHA establishment would be separate from the other Department of Labor agencies also housed in the building.

Question: If an employee telecommutes from home, is his or her home considered a separate establishment?

Answer: No. Employees who telecommute are considered part of the permanent federal establishment to which they report.

Federal workplace structures are highly varied and can be complicated for OSHA recordkeeping purposes. The following examples are provided for your information and guidance to demonstrate how situations faced by some federal departments are handled.

EXAMPLES

Short Duration Duty Stations

Scenario - FEMA Disaster Response

FEMA sets up Joint Field Offices (JFO) for presidentially declared disasters, with one JFO per state. The offices are open as long as there are active disaster recovery operations, which can last from a few weeks to several years. FEMA has opted to treat each JFO as an individual establishment, regardless of its duration, and each maintains an OSHA 300 log. Disaster Recovery Centers (DRCs) are smaller offices, generally associated with providing individual assistance, and are opened and closed on an as-needed basis or rotated through various locations throughout the disaster area. Employees working in OSHA DRCs are tracked as part of the JFO to which they report. When a JFO is closed, the 300 log is sent to the FEMA regional office for archiving and updating, as required by 29 CFR 1904.33.

Scenario - United States Secret Service (USSS)

USSS's "protective detail employees" are formally assigned to an office of record. However, they are regularly deployed on short-term assignments within the United States or abroad. When deployed in this fashion, work-related injuries and illnesses are tracked to the office of record.

Satellite Locations

Scenario - Satellite Offices under Central Oversight

An agency has designated "Area Offices" with management oversight and operational and maintenance responsibility for a number of smaller facilities which can be geographically

separated by as much as 100 miles. Each area office has responsibility for several hundred employees dispersed at the various smaller facilities which may have staffing of only 2-3 permanent or temporary employees each.

Although the OSHA 300 logs for each of the establishments within the Area Office oversight can be maintained at the central location (Area Office), each smaller facility must be provided with their individual OSHA 300 log within four hours of any request.

Scenario – Extensive Geographical Area

A National Park can cover hundreds or thousands of square miles with many diverse functions and activities. Some parks are divided into districts covering specific geographic areas, which are managed as separate entities.

In this case, each park is recognized as a single establishment for maintaining the OSHA 300 log because: 1) it is a single physical location; 2) it fits within one NAICS code; and 3) it has one overriding manager. The park could maintain separate internal records for its own purposes, but would need to aggregate the data for the entire park when OSHA requests the information.

Federal agencies face a number of unique challenges in fitting their workplaces into the definition of "establishment" for OSHA recordkeeping purposes. Hopefully the information provided above will be of assistance. If you have any questions or need additional information, please feel free to contact the Office of Federal Agency Programs at (202) 693-2122. Our Federal Agency Program staff will be happy to assist you.